

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
NORTHERN DIVISION**

JOSHUA MCFERRIN,

Plaintiff,

v.

CORIZON HEALTH, INC., et al.,

Defendants.

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No. 2:20-cv-31-JMB

MEMORANDUM AND ORDER

This matter is before the Court upon review of the file. Plaintiff, an inmate at the Northeast Correctional Center, initiated this case on June 5, 2020 by filing a civil rights complaint under 42 U.S.C. § 1983 against Corizon Health, Inc. and other defendants. He also filed a motion leave to proceed *in forma pauperis*. The Court granted the motion and reviewed the complaint pursuant to 28 U.S.C. § 1915(e)(2), and determined that it was defective and subject to dismissal. On August 27, 2020, the Court entered an order giving plaintiff the opportunity to file an amended complaint to cure the defects. In that order, the Court clearly explained why the complaint was subject to dismissal, gave plaintiff clear instructions about how to prepare the amended complaint, and cautioned him that his failure to timely comply with the order would result in the dismissal of his case without prejudice and without further notice. The Court also directed plaintiff to pay an initial partial filing fee.

Plaintiff's response was due to the Court on September 28, 2020. To date, however, he has neither complied with the Court's order, nor sought additional time to do so. The Court gave plaintiff meaningful notice of what was expected, cautioned him that his case would be dismissed if he failed to timely comply, and gave him significant additional time to comply.

Therefore, this action will be dismissed without prejudice due to plaintiff's failure to comply with this Court's August 27, 2020 order and his failure to prosecute his case. *See* Fed. R. Civ. P. 41(b); *see also Brown v. Frey*, 806 F.2d 801, 803-04 (8th Cir. 1986) (a district court has the power to dismiss an action for the plaintiff's failure to comply with any court order); *Dudley v. Miles*, 597 F. App'x 392 (8th Cir. 2015) (per curiam) (affirming dismissal without prejudice where *pro se* plaintiff failed to file an amended complaint despite being cautioned that dismissal could result from failure to do so). This dismissal will not count as a "strike" for purposes of 28 U.S.C. § 1915(g).

Accordingly,

IT IS HEREBY ORDERED that this action is **DISMISSED** without prejudice. A separate order of dismissal will be entered herewith.

IT IS HEREBY CERTIFIED that an appeal from this dismissal would not be taken in good faith.

Dated this 2nd day of November, 2020.



RONNIE L. WHITE
UNITED STATES DISTRICT JUDGE